

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED

JUN 21 2004

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY mgc
DEPUTY CLERK

SCOTT LOUIS PANETTI,
Petitioner

V.

DOUG DRETKE, Director,
Texas Department of Criminal
Justice, Institutional Division,
Respondent.

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Case No. A-04-CA-042-SS

**MOTION FOR AUTHORIZATION OF FUNDS FOR EXPERT AND INVESTIGATIVE
ASSISTANCE, STATEMENT OF THE NEED FOR CONFIDENTIALITY, AND
MOTION FOR LEAVE TO FILE EX PARTE APPLICATION FOR FUNDS UNDER
SEAL**

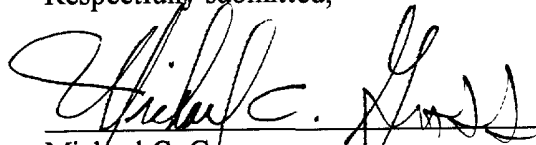
Counsel for Petitioner Scott Louis Panetti asks this Court, pursuant to 21 U.S.C. § 848(q)(9) and McFarland v. Scott, 512 U.S. 849 (1994), to authorize funds for expert and investigative assistance reasonably necessary for counsel's preparation of a petition for writ of habeas corpus. This motion has been filed and served on opposing counsel. Counsel has filed more detailed applications for authorization of funds for expert and investigative assistance with this Court. See Shields v. Johnson, 48 F. Supp. 2d 719 (S.D. Tex. 1999); Patrick v. Johnson, 37 F. Supp. 2d 815 (N.D. Tex. March 8, 1999). Counsel for Mr. Panetti seeks leave to file these more detailed applications ex parte and under seal.

Counsel for Mr. Panetti can demonstrate the need for confidentiality in making his request for expert and investigative assistance by specifying the services needed and the broad issue or topic for which the services are required. See Patrick, 37 F. Supp. 2d at 816 ("The statement of need for confidentiality merely must identify generically the type of services needed and the broad issues or

topic (e.g. innocence) for which the services are necessary.”). Counsel requires the services of experts and investigators to develop the facts in support of a claim that Mr. Panetti is incompetent to be executed under Ford v. Wainwright, 477 U.S. 399 (1986).

Counsel requires the services of mental health experts to conduct a current, comprehensive, and professional evaluation of Mr. Panetti and to review the report written by the state court-appointed experts. Counsel requires the assistance of investigators to identify and obtain all documents relevant to Mr. Panetti’s prior and current mental condition. Counsel also needs investigators to identify, locate, and interview mental health professionals, friends and family, correctional staff, and other persons familiar with Mr. Panetti’s past and current behavior. These tasks are reasonably necessary for the representation of Mr. Panetti in the federal post-conviction proceedings. Therefore, counsel for Mr. Panetti asks the Court to authorize funds pursuant to 21 U.S.C. § 848(q)(9) and McFarland so that he may fully develop the facts of his Ford claim.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael C. Gross", is written over a horizontal line.

Michael C. Gross

State Bar No. 08534480

106 South St. Mary’s Street, Suite 260

San Antonio, Texas 78205

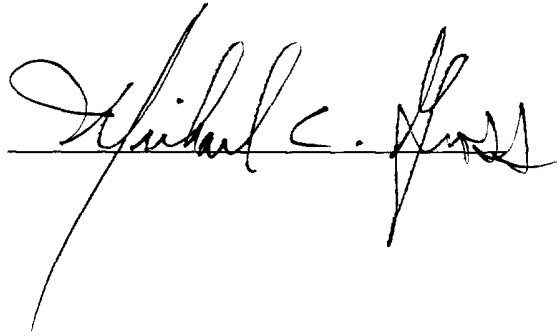
(210) 354-1919

(210) 354-1920 (Fax)

Attorney for the Petitioner,
SCOTT LOUIS PANETTI

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was mailed, via First Class U.S. Mail, to Tina J. Dettmer, Assistant Attorney General, P.O. Box 12548, Capitol Station, Austin, Texas 78711-2548, on this 21 day of June 2004.

A handwritten signature in black ink, appearing to read "Michael C. Gross", written over a horizontal line.

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ORDER

Petitioner Scott Louis Panetti's Motion for Leave to File Ex Parte Application for Authorization of Funds for Expert and Investigative Assistance Under Seal is GRANTED.

SIGNED on this ____ day of _____ 2004.

UNITED STATES DISTRICT JUDGE